

DOCKET FILE COPY ORIGINAL

ORIGINAL
RECEIVED

JUN 20 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
) CC Docket No. 92-115
Revision of Part 22 of the Commission's)
Rules Governing the Public Mobile Services)

COMMENTS

Source One Wireless, Inc. ("Source One Wireless"), an Illinois Corporation, submits these its Comments on the Further Notice of Proposed Rulemaking, FCC 94-102, in the above referenced matter released May 20, 1994.

Introduction

Source One Wireless operates paging facilities on 931.1875 MHz in the Chicago metropolitan area and in portions of six states (Minnesota, Wisconsin, Illinois, Indiana, Michigan and Missouri). It is in the process of applying for and building out its system in the Midwest, South and Southeast.

In this filing, Source One Wireless comments only upon the proposal affecting the 931 MHz applications.

Background

On May 20, 1994, the Commission released its Further Notice of Proposed Rulemaking ("Further Notice") in connection with the Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115. In the Further Notice, the

No. of Copies rec'd
List ABCDE

114

Commission presented proposals affecting cellular service and proposals affecting Public Land Mobile Services, in particular, 931 MHz applications. In connection with the latter, the Commission proposes to consolidate all pending applications with applications that have been granted, denied or dismissed and are being litigated. In addition, the Commission proposes that these applicants specify a frequency. The applications will be placed on Public Notice and subject to the 30 day Petition to Deny and 60 day mutually exclusive application procedures. The Commission also proposed that the amended applications and newly filed application that are mutually exclusive be considered together as a processing group and that they be subject to the competitive bidding process. Finally, the Commission proposed additional locations of an existing 931 MHz frequency will be considered to be initial application if it is more than 1.6 miles from any existing facility.

Discussion

While Source One Wireless commends the Commission on its efforts to deal with the processing of 931 MHz applications and would agree that some of the suggested procedures for future filings have merit, it opposes the Commission's proposal in connection with the restriction of existing frequency applications to 1.6 miles from an existing station and partially opposes the Commission's proposal regarding the amendment of pending 931 MHz applications.

1. Mileage Restrictions on existing frequency applications

Source One Wireless opposes the Commission proposed mileage restrictions on applications for locations on existing frequencies. The Commission has always recognized that for purposes of providing wide-area paging service, co-channel facilities are required. See Lottery Selection Among Applications, 57 RR 2d 427, 437 (1984). In order for a licensee to efficiently and economically expand a wide-area system, a common frequency must be used at all locations. Id. Thus, frequencies for wide-area paging service are not fungible. In precedent, the Commission has stated that a frequency preference expressed by an applicant for a new 900

MHz system is properly rejected where a conflicting applicant seeks to expand an existing system on the requested frequency. See John D. Word, 7 FCC Rcd 3201 (Comm. Carr. Bur. 1992). Based on that policy and precedent, it is submitted that applications for additional sites should not be considered to be applications for new frequencies if they are more than 1.6 miles from an existing station. That precedent came from an understanding of the nature of wide-area paging and the necessity to build enough transmitter sites on the same frequency to provide adequate coverage. To build out a frequency in a certain area, implementation of such a proposal would provide either needless expense in constructing a multitude of transmitters each 1.6 miles apart or provide opportunities for mutually exclusive applications at every turn. Thus, Source One Wireless opposes the 1.6 mile restriction.

Thus, while Source One Wireless could support the concept of a limitation on mileage for additional transmitter sites, it opposes the 1.6 mile restriction. A more realistic mileage restriction would be more than 20 miles from an existing transmitter. Using that distance requirement, an existing carrier would not have to risk a mutually exclusive situation every time it filed for an additional transmitter beyond 1.6 miles.

2. The Amendment of Existing 900 MHz Applications.

Source One Wireless partially opposes the FCC's amendment proposal to specify frequency to the extent that it submits that Section 22.31(b) for already pending applications with a frequency preference should be imposed on applicants who are required to amend their applications. Since there are existing licensees requesting a frequency preference who may be proposing wide-area coverage and expansion of their existing systems, it would be unfair to allow an applicant seeking a new frequency to amend its application to specify a frequency which is already the subject of an application pending for over 60 days. Accordingly, Source One Wireless requests that the Commission clarify that those applications which have already specified a frequency and have been pending past the cut-off period imposed by Rules Section

22.31(b) will not be made mutually exclusive by the final rules requiring specific frequency amendments for pending applications.

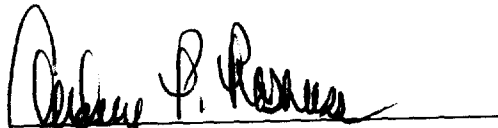
Conclusion

Source One Wireless respectfully requests that the Commission take these comments into consideration when revising the Part 22 Rules.

Respectfully submitted,

SOURCE ONE WIRELESS, INC.:

By:



David L. Hill

Audrey P. Rasmussen

Its Attorneys

O'Connor & Hannan
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006-3483
(202) 887-1400

Dated: June 20, 1994

Doc.10543